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EXAMINER

D AGOSTA, STEPHEN M

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 02/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/582,945

Applicant(s)

RITTER, RUDOLF

Examiner

Stephen M. D'Agosta

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### **Response to Arguments**

Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection (added Suzuki reference).

1. The examiner acknowledges amendments to claims 1-19 and to the new abstract.

2. The applicant argues Yoshinobu does not teach a telecomm method nor receiving apparatus with radio/TV receiver, mobile radio equipment, an identification card automatically identifying the user, reception of program-accompanying data via broadcast or display (page 8 of the amendment). The examiner disagrees since, per the office action, these limitations were found in the prior art AND/OR one skilled in the art would provide for modifications to arrive at these limitations (see claim 1 rejection). Paramount to the examiner's rejection is the movement of transmit/receive equipment located in apparatus (figure 1, #400 and C6, L5-30) to the handheld device (which is RF enabled and would be cellular, C6, L14-16, and a wired phone can be replaced by cellular by one skilled in the art). Hence, the handheld device would have transmit/receive capability. ***Suzuki teaches a broadcast receiving station for pseudo bi-directional communications between broadcast station and audience via radio wave (eg. radio, TV) that acquires program content and audience can transmit data back to broadcast station (C2, L28-53). One skilled in the art would modify the invention to provide wireless communications as described above.***

3. The examiner broadly interprets automatic and/or manual as reading on each other (with regard to identification of the user, which is disclosed by Yoshinobu figure 3, #325 registers ID and Jonstromer, C1, L27-44 per first action)

4. Yoshinobu teaches message-preparing means and user entered commands (figure 3, #325 and C7, L5-14 per first office action).

5. Radio/TV receivers and display apparatus are taught per the first office action.

6. Movement of transmit/receive hardware to the remote control device provides for transmit/receive capability that reads on the applicant's invention and Jonstromer shows a wireless device that connects to a telecommunications network (figure 1).

- Exactly what is novel about the applicant's use of the word "telecommunication"? This is broadly interpreted by the examiner to read on ANY communications network known in the art.

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7. Diehl teaches identification and interaction with television programs (C2, L31-67 to C3, L1-56) and any wired/wireless system can be used (as has been described above).

8. Alperovich teaches a system for providing service based on broadcasted information (title) and that the SIM card would include a JAVA platform (C5, L9-17) and any telecommunications method can be used as described above (see first office action).

### ***Response to Amendment***

The amendment filed on 1-23-03 under 37 CFR 1.131 has been considered but is ineffective to overcome the Yoshinobu reference.

### ***Drawings***

The drawings are objected to because all boxes must be labeled, not just with an "element number" as is shown in figures 1-4. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-3, 5-15 and 17-19** rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshinobu U.S. Patent 5,684,526 further in view of Jonstromer U.S. Patent 6,142,369 and Diehl et al. U.S. Patent 5,173,589 and Suzuki US 5,946,026 (hereafter referred to as Yoshinobu, Jonstromer and Diehl and Suzuki).

As per **claims 1 and 14**, Yoshinobu teaches a two-way broadcast telecommunications method (title) comprising:

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Receiving by means of a suitable a telecommunications mobile device (figure 2 #300 and figure 3), ~~which contains~~ containing a receiver therein (figure 2 shows RF link between #300 and #400 via #301 transmitter), digital data ~~sent~~ transmitted over a broadcast channel ~~which data are transmitted~~ as program-accompanying data in a media program (C2, L56-65)

Displaying information corresponding to the received digital data on a display of the mobile device (figure 3, #302)

Entering a command by the user (figure 3, #320 shows buttons used to enter a command)

Preparing a message corresponding to the entered command, the prepared message including at least one data field from the received digital data ~~received~~ and an identification of the user (figure 3, #325 and C7, L5-14)

Sending the prepared message over a mobile radio network (C8, L12-30)

**But is silent on:**

A radio and/or television receiver

the telecommunications mobile device including includes an identification card by which the user of the telecommunications device is identified AND determined from the identification card.

The examiner points out that the wireless device in figure 2 communicates with an "interface system" (#400) which acts as the intermediary device between the wireless device and the television/telephone systems. One skilled in the art would be able to move the components of the interface system to the wireless device so that it can communicate directly with the TV/radio broadcast and phone network as needed.

Jonstromer teaches a mobile phone that uses a smart/SIM card which identifies the user (C1, L27-44).

Diehl teaches a process for instantaneous confirmation of actions in relation to television programs and device for use of the process (title) that teaches a receiver (figure 1, #3) and smart card reader which are used to interact with the television program (C2, L31-67 to C3, L1-56). Diehl teaches direct reception and interaction with the TV show but does not teach the "receiver" as being a mobile device (whereas Yoshinobu does).

***Suzuki teaches a broadcast receiving station for pseudo bi-directional communications between broadcast station and audience via radio wave (eg. radio, TV) that acquires program content and audience can transmit data back to broadcast station (C2, L28-53). One skilled in the art would modify the invention to provide wireless communications as well.***

**With further regard to claim 14**, Yoshinobu does teach that the mobile device has a display/LCD which one skilled in the art would use to reproduce said media program. The examiner also points out that the applicant states mobile radio apparatus with an adequate screen (eg. video phone) are commercially available and one skilled in the art can easily integrate a TV tuner in such mobile device (page 4, L19-29).

It would have been obvious to one skilled in the art at the time of the invention to modify Yoshinobu, such that the device has a radio/TV receiver and ID Card and can display the media program, to allow a user to directly receive the broadcast for viewing

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and allow the user to uniquely identify themselves to the media program (eg. for shopping).

As per **claim 2**, Yoshinobu teaches claim 1 **but is silent on** wherein said media program is reproduced by the telecommunication mobile device.

Yoshinobu does teach that the mobile device has a display/LCD which one skilled in the art would use to reproduce said media program.

The examiner also points out that the applicant states mobile radio apparatus with an adequate screen (eg. video phone) are commercially available and one skilled in the art can easily integrate a TV tuner in such mobile device (page 4, L19-29).

It would have been obvious to one skilled in the art at the time of the invention to modify Yoshinobu, such that the device can reproduce the media program, to provide the user means to receive the broadcast directly for viewing without the need for a TV set.

As per **claim 3**, Yoshinobu teaches claim 1 wherein the user uses a remote control transmitter to view and select a response (C5, L56-65) [eg. displayed information contains at least one menu from which a command can be selected].

As per **claim 5**, Yoshinobu teaches claim 1 wherein remote control transmitter (figure 4) contains RAM/ROM (#313/#312) that can be used to store data which is received **but is silent on** when the information processing/displaying components are turned off, the received data ~~received are~~ is temporarily stored in a buffer and not processed until these components are turned on.

The examiner points out that the ability of the device to receive/store data while certain components are switched off is a design choice and one skilled in the art would be able to provide this service as the amount of memory permits.

It would have been obvious to one skilled in the art at the time of the invention to modify Yoshinobu, such that the mobile device can receive/store data if processing/displaying components are turned off, to provide means for the user to receive data even if they are not present to receive it and/or have the unit turned off.

As per **claim 6**, Yoshinobu teaches claim 1 **but is silent on** wherein the received digital data ~~received are~~ is packed in messages which are first evaluated in order to determine whether ~~they the messages are to~~ must be displayed.

The examiner points out that the processing of data received has many possibilities, including FIFO, LIFO, etc.. The examiner points out that the way in which data is processed is a design choice since there are several possibilities that exist, each of which have their merits depending upon the situation/user environment. Yoshinobu is interpreted to provide FIFO processing since it is an interactive system that prefers action as a message is received.

It would have been obvious to one skilled in the art at the time of the invention to modify Yoshinobu, such that data is evaluated in order to determine whether they must

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be displayed, to provide an "evaluation step" that determines whether the message(s) are important enough to be displayed or not.

As per **claim 7**, Yoshinobu teaches claim 1 **but is silent on** wherein the received message which are not of interest to the user are sorted out with the aid of a user profile stored in memory of the mobile device.

Jonstromer teaches a SIM Card in a mobile phone that stores a variety of information about a mobile telephone subscriber and the services they are entitled to (C1, L29-32) which is similar to a user profile. (NOTE: The data in a SIM card can be downloaded to the mobile unit's RAM memory).

Since Yoshinobu discloses a myriad of uses for responding to two-way broadcast programs such as a quiz show, TV shopping, polling surveys, audience participation, etc. (C1, L20-28), one skilled in the art would ensure that a message which is not of interest to a user is sorted based on the user profile stored in the memory/SIM of the mobile device.

It would have been obvious to one skilled in the art at the time of the invention to modify Yoshinobu, such that messages are sorted based on the user's profile, to ensure that the most user-preferred messages are shown and those not of interest (based on the user profile) are discarded or placed at the end.

As per **claim 8**, Yoshinobu teaches claim 1 **but is silent on** wherein the digital data are is transmitted in a radio channel.

Yoshinobu discloses TV and radio broadcasts (C1, L14-27) and hence, one skilled in the art would use a radio channel to transmit the digital data.

While Yoshinobu teaches a two-way broadcast system that support TV broadcasts (figure 1, #100), the data is not sent directly to the mobile unit, but rather, through an interface unit. One skilled in the art would remove the interface unit (figure 2, #400) and add radio-receiving components to the mobile unit so that it can transmit/receive directly.

It would have been obvious to one skilled in the art at the time of the invention to modify Yoshinobu, such that the data is received/transmitted in a radio channel, to provide the user the ability to receive/transmit data from TV, radio or other broadcast means.

As per **claim 9**, Yoshinobu teaches claim 1 **but is silent on** wherein the digital data are is transmitted in a TV channel.

While Yoshinobu teaches a two-way broadcast system that support TV broadcasts (figure 1, #100), the data is not sent directly to the mobile unit, but rather, through an interface unit. One skilled in the art would remove the interface unit (figure 2, #400) and move the TV-receiving components from said interface unit to the mobile unit so that it can transmit/receive directly.

It would have been obvious to one skilled in the art at the time of the invention to modify Yoshinobu, such that the data is received/transmitted in a TV channel, to provide the user the ability to receive/transmit data from TV, radio or other broadcast means.

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As per **claims 10 and 17**, Yoshinobu teaches claim 1 or ~~14-16~~ 15 **but is silent on** wherein the prepared message is a SMS message.

Yoshinobu teaches the use of a telephone network (figure 1, "LINE" is a telephone line) which can be replaced by a cellular/wireless link. SMS messaging in cellular/wireless systems is well known and one skilled in the art would replace the message sent from Yoshinobu's invention to an SMS message to provide a known means of sending messages from a cell phone.

It would have been obvious to one skilled in the art at the time of the invention to modify Yoshinobu, such that the prepared message is an SMS message, to take advantage of the SMS messaging capability existing today in the cellular industry.

As per **claims 11 and 18**, Yoshinobu teaches claim 1 or ~~14-17~~ 15 **but is silent on** wherein the prepared message is a USSD message.

Yoshinobu teaches the use of a telephone network (figure 1, "LINE" is a telephone line) which can be replaced by a cellular/wireless link. SMS messaging in cellular/wireless systems is well known and one skilled in the art would replace the message sent from Yoshinobu's invention to an SMS message to provide a known means of sending messages from a cell phone.

It would have been obvious to one skilled in the art at the time of the invention to modify Yoshinobu, such that the prepared message is an USSD message, to take advantage of the USSD messaging capability existing today in the cellular industry.

As per **claim 12**, Yoshinobu teaches claim 1 **but is silent on** wherein the prepared message is signed.

Yoshinobu teaches a REGISTER ID button on the mobile device (figure 3, #325) which registers the user with the network. This parallels the applicant's limitation of the message being signed, since a user is essentially informing the network of who they are (eg. signing a message) when they register. Other ways of "signing a message" to identify the user include the use of a Hash function, public Key and the use of a secret password/login.

It would have been obvious to one skilled in the art at the time of the invention to modify Yoshinobu, such that the prepared message is signed, to ensure the authenticity of the transmitted message.

As per **claim 13**, Yoshinobu teaches claim 1 **but is silent on** wherein the prepared message is encrypted.

Since cellular/wireless systems broadcast RF data for all to receive, one skilled in the art would provide encryption to protect a user from having personal data being stolen.

It would have been obvious to one skilled in the art at the time of the invention to modify Yoshinobu, such that the prepared message is encrypted, to ensure that the message cannot be read by anyone other than the intended recipient.



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As per **claim 15**, Yoshinobu teaches claim 14 **but is silent on** wherein the mobile radio components ~~comprise~~ include a GSM phone.

Jonstromer teaches a GSM phone (C1, L39-41).

It would have been obvious to one skilled in the art at the time of the invention to modify Yoshinobu, such that the phone is a GSM phone, to ensure that the system can be used in multiple phone systems (ie. AMPS, D-AMPS, CDMA, TDMA/FDMA, GSM, etc.).

As per **claim 19**, Yoshinobu teaches claim 44-48 15 wherein there is a display (figure 3, #302).

**Claims 4 and 16** rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshinobu and Jonstromer as applied to claims 14 or 15 above, and further in view of Alperovich et al. U.S. Patent 6,138,002.

As per **claim 4**, Yoshinobu teaches claim 1 wherein the remote control transmitter contains a microcomputer/CPU which can store/execute any program (C7, L22-35) **but is silent on** wherein the digital data ~~can~~ contain applets which are executed by the mobile device.

Alperovich teaches a system for providing services based on broadcasted information (title) and that the SIM card could include a JAVA platform which allows the BSS to send a JAVA script containing the time period application and counter application to the MS, which can then be run on the SIM card (C5, L9-17).

It would have been obvious to one skilled in the art at the time of the invention to modify Yoshinobu, such that the mobile can execute applets, to provide the user means for receiving a program downloaded by the media program to allow the user to interact with said media program (eg. the program may download a specific software application that must for the user to use for shopping, etc.).

As per **claim 16**, Yoshinobu teaches claim 44-~~or~~ 15 **but is silent on** wherein the ID card is a SIM card capable of executing the applets transmitted in the program-accompanying data.

Jonstromer teaches a GSM phone that uses a SIM card (C1, L28-44). The examiner notes that a SIM card can store any type of data (including JAVA Applets).

Alperovich teaches a system for providing services based on broadcasted information (title) and that the SIM card could include a JAVA platform which allows the BSS 380 to send a JAVA script 385 containing the time period application 320 and counter application 330 to the MS 300, which can then be run on the SIM card 310 (C5, L9-17).

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**Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 703-306-5426. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Hunter can be reached on 703-308-6732. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

SMD   
February 21, 2003

  
THANH CONG LE  
PRIMARY EXAMINER

2/21/03

